IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3961 OF 2003

Maharashtra State Khadi Gramodyog Mandal Pensioners' Asson. Mumbai & Ors .... Petitioners.
V/s
State of Maharashtra & Ors.... . ... Respondents.

Mr.P.K.Dhakephalkar with Mr.J.G.Reddy for the petitioners.

Mr.S.R.Nargolkar, AGP for respondents.

CORAM: V.G. PALSHIKAR
AND
V.R.KINGAONKAR, JJ.

12.04.2006

PC:

By this petition the petitioners an association of retired employees of the Maharashtra State Khadi Gramodyog Mandal have sought a direction in the nature of mandamus requiring the State to pay to the pensioners retiring from service of the Mandal the same pension as is payable to the employees of Government of Maharashtra.

2. Reliance is placed on the resolution of Government of Maharshtra passed on 1.7.1985 pertaining to grant of retiremental benefits to the employees of Maharashtra State Khadi Gramodyog Mandal similar to those granted to the Government employees. By this resolution the Government of Maharashtra considered the background which existed for issuance of this resolution. In the background they have said that the Board gets 100% grant from the State. Various other beneficial provisions applicable to the State

Government employees are also applicable to the employes of the Mandal and consequently their parity with the employees of the State is established and therefore this decision was taken. The Government therefore by the resolution of 1.7.1985 resolved that all the employees of the Maharashtra State Khadi & Village Industries Board who were working on the present post or posts likely to be created hereafter in the establishment of the Board under the control of Industries, Energy & Labour department on 1.4.1985 or thereafter shall be governed by pensions scheme, service gratuity, death gratuity rules of Maharashtra Civil Services (pension) 1982 Rules as also family pension scheme and it was specifically resolved that this scheme will be applicable with the amendments made therein from time to time by the State. The Government factually directed by this resolution that the amendments made under the rules from time to time and amendments and changes likely to be made in future shall be automatically applicable to the employees of the Board from the date they are made applicable to the Government employees. In the face of this unequivocal resolution of the State it is not possible for the State to wriggle out this commitment done by the State way back in the year 1985.

3. The State has now come with a plea that the Board is autonomous Board independent in nature and therefore its employees cannot be equated to the employees of the State of Maharashtra. However in the face of the resolution this plea as canvassed on behalf of the State is not tenable. It was then contended by Shri Nargolkar appearing for the State that taking into consideration the present financial crunch which the State is facing it is not

feasible and possible for the State to pay revised pension from time to time to the employees of the Board. Apart from the fact that this submission is not acceptable as law must be applied as it stands and its application cannot vary because of financial constraints presently existing in State, in our opinion, therefore the petition deserves to be allowed. It is hereby allowed. Respondent-State is directed to apply the revised pension Rules as revised from time to time as provided by the Resolution dated 1.7.1985 including the revised pays as done by various Pay Commissions to the employees of the Board retiring after 1.4.1985. The fixation of the pension should be undertaken immediately and the revised pension after refixation should be paid immediately thereafter. It is expected that looking to the fact that the matter pertains to the pensioners the State shall complete this exercise as early as possible preferably in six months. Payment also should follow expeditiously. There shall be no order as to costs. Petition accordingly stands disposed of.

12.4.06